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FEDERAL COMMUNICATIONS COMMISSION
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Before the

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

In the Matter of) ET-Docket No. 93-62
Guidelines for Evaluating the Environmental) and FCC Report and Order FCC 96-326
Effects of Radiofrequency Radiation)

To: The Commission

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- 1) Reply to Opposition to some requests in Petitions of Reconsideration of Ameritech Mobile Communications.
- 2) Reply to Opposition to request of Electromagnetic Energy Association to preempt non-personal wireless services and to establish the 1992 ANSI/IEEE standard.
- 3) Reply to requests of Paging Network, Inc.

Regarding FCC Report and Order FCC 96-326 Adopted and Released August 1, 1996

Submitted by:

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As citizens of the State of Vermont, we recognize the importance of the wireless telecommunications industry and the benefits to our state's economy. There have been many issues raised in opposition to some telecommunications facilities; we believe the primary purpose of government oversight is to protect local residents from radiofrequency radiation and the intrusions of radiofrequency interference. Towers are being placed inappropriately near schools, child care centers, near hospitals, and residences with little regard to health and safety of those people. Tower owners and users claim outright preemption and their right to interstate commerce. Local communities are ill equipped to evaluate or to contest these facilities without clear directives from the FCC. As citizens who have educated ourselves because of widespread RFI in our homes and businesses and the threat of RFR to our families and our children, we ask that you be sensitive to local review and reaffirm that all telecommunication users and operators must be in compliance with minimum standards. Few citizens have the time and background to monitor and enforce your rules. Our experience, with all due respect, is that the FCC does not have the time and capability to monitor each telecommunications site in this country. Instead, you rely on the good faith compliance of your regulated industries. The rapid expansion of these industries and the motivation in some instances to co-locate on existing towers can increase RFI and RFR in ways that have not been experienced previously. Please consider our comments; they are being offered in a positive and constructive way.

1. Requests by the industry to replace the new FCC standard which is primarily based on that of the National Council for Radiation Protection and Measurements (NCRP), with that of the Institute of Electrical and Electronic Engineers (IEEE) is inappropriate. Above

1500 MHz the IEEE standard allows higher exposures to the public, reaching 10-fold higher than the NCRP standard for frequencies above 15,000 MHz. We feel the NCRP standard is not adequate either, as both standards do not take into consideration the non-thermal effects of RFE. The final list of studies used in the IEEE report indicates levels below the NCRP standard of 4W/kg are dangerous. Both behavioral and non-behavioral problems were found in a number of studies at fractions of the NCRP standard (see IEEE "final list" of studies). As well as not taking into account the non-thermal effects of RFE, the IEEE standard does not take into consideration exposure to the general public. Other countries around the world use much stricter standards for exposure to the general public or use satellite technology. The FCC should consider adopting standards higher than NCRP, given the current rapid deployment of telecommunications services.

2. We oppose the industry's proposal to "grandfather" existing licensed facilities.

The Rules clearly state every FCC licensed facility has until January, 1997, to comply. The number of towers built in Vermont over the past six months is astounding. Some of the existing towers were built either in violation of local permits or without permits at all.

3. We agree that any operator on a site contributing more than 1% of the total RFE be responsible for reducing exposure limits. Industry requests for 10 - 25% are not acceptable. By placing responsibility with the user, there will be incentive to monitor accumulated radiation. By exempting these users it is reasonable to assume there may be an increase in the radiation levels, perhaps in excess of the existing standard, if users know they cannot be held responsible.

4. We agree that each operator be responsible for making sure that its site is in compliance. Their requests that "site" owners be responsible raises several problems. It is unclear if "site" owner refers to the facility owner or the land owner. Assuming it is related to the land, a rural state such as Vermont has many unsuspecting landowners who most likely do not have the capability or the funds to make sure the antennae farm on their property is in compliance. Given the increased number of facilities that will be erected, and the reduced level of federal funding available for enforcement, it is essential that telecommunication users be responsible for the sites upon which their facility operates. No government entity, federal, or state has the regulatory capability to oversee these sites. It is incumbent on the FCC to place some incentive on each operator for compliance.

5. We oppose preemption of state and local jurisdiction. Industry proposals to preempt all FCC licensees, not just personal wireless services are unacceptable. Congress intended to facilitate the deployment of *personal wireless* services. Other telecommunications services should not have the same benefits. Their requests to preempt the operation of personal wireless facilities in addition to the placement, construction, and modification of these facilities are unacceptable. Given the extremely difficult task the FCC has in order to enforce its rules; and in light of government cutbacks and the rapid deployment of telecommunications facilities, it is important that state and local agencies oversee the proper operation of these facilities. Moreover, our review indicates the operation of facilities was preempted in the House version of the Act, but then was removed before final passage. It would be improper at this point for the FCC to presume Congress intended to preempt the operation. We oppose the industry's requests to have facilities which follow FCC rules and

exposure criteria preempted from state tort liability in order to protect them from any future liability claims. Again, with the rapid deployment of this technology, we need to preserve the rights of the American public. We don't know what the future has in store for us. The telecommunications industry seems to want more "special" treatment. They should be treated equally with other industries. This is something Congress should consider.

6. The industry lobbied heavily in Montpelier, Vermont this past legislative session to deregulate the telecommunications industry on the state and local level. It lobbied to take radio waves out of our Environmental Law (Act 250) as air pollution. They lobbied to take the placement of telecommunications facilities out of local zoning laws. They lobbied to give a single person in state government carte blanche authority to site telecommunications facilities on state-owned buildings and land. In a small state it is relatively easy for a few individuals - such as ourselves - to make a difference. Other states may not be as fortunate.

7. We urge you not to accept the industry's requests. Although the FCC is not primarily responsible for the health and well-being of the American public, only you can protect us provide the necessary protection from emissions which are not fully understood.

Respectfully submitted,


Holly Fournier

Executed October 18, 1996


Mary Beth Freeman

Executed October 18, 1996